

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CRIMINAL NO.  
04-10309-GAO

UNITED STATES OF AMERICA

v.

KURBY DUMORNAY

**INTERIM STATUS REPORT**

March 11, 2005

DEIN, M.J.

An Interim Status Conference was held before this court on Friday, March 11, 2005, pursuant to the provisions of Local Rule 116.5(A). Based on that conference, this court enters the following report and orders, to wit:

1. The government is responding to the defendant's discovery letter. It appears that the production of certain items will be in dispute.
2. The defendant has requested expert discovery prior to trial pursuant to Fed. R. Crim. P. 16(a)(1)(E). The government shall make its expert witness disclosures no less than thirty (30) days before the scheduled trial date. The defendant shall make reciprocal disclosures no later than fourteen (14) days before trial.
3. The defendant shall file all discovery motions by April 22, 2005. The government's response shall be filed by May 10, 2005.
4. In this court's view, this is not a case involving unusual or complex issues for which an early joint conference of the district judge and the magistrate judge with counsel of record would be useful.
5. In this court's view, this is not a case involving features which would warrant special attention or modification of the standard schedule, except as provided herein.

6. It is too early to determine whether a trial will be necessary.
7. This court finds and concludes, pursuant to the provisions of 18 U.S.C. § 3161(h)(8) and Section 6(b)(8) of the Plan for Prompt Disposition of Criminal Cases in the United States District Court for the District of Massachusetts (Statement of Time Limits Adopted by the Court and Procedures for Implementing Them, Effective July 1, 1980), that the interests of justice, i.e., review of the case, review of evidence, consideration of alternatives concerning how best to proceed with this matter, and preparation of motions, outweighs the best interests of the public and the defendant for a trial within seventy days of the return of an indictment.

Accordingly, it is hereby ordered that, pursuant to the provisions of 18 U.S.C. § 3161(h)(8) and Section 6(b)(8) of the Plan for Prompt Disposition of Criminal Cases in the United States District Court for the District of Massachusetts (Statement of Time Limits Adopted by the Court and Procedures for Implementing Them, Effective July 1, 1980), the Clerk of this Court enter excludable time for the period of March 11, 2005 through May 16, 2005 that being the period between the Interim Status Conference and the next Status Conference.<sup>1</sup>

8. Based upon the prior orders of the court dated December 3, 2004, January 13, 2005 and the order entered contemporaneously herewith, at the time of the Interim Status Conference on May 16, 2005, there will be thirteen (13) days of non-excludable time under the Speedy Trial Act (December 31, 2004 - January 12, 2005) and fifty-seven (57) days will remain under the Speedy Trial Act in which this case must be tried.
9. **An Interim Status Conference and hearing on all discovery motions has been scheduled for May 16, 2005 at 2:00 p.m. Counsel for the**

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<sup>1</sup> The parties are hereby advised that under the provisions of Rule 2(b) of the Rules for United States Magistrates in the United States District Court for the District of Massachusetts, any party may move for reconsideration by a district judge of the determination(s) and order(s) set forth herein within ten (10) days after receipt of a copy of this order, unless a different time is prescribed by this court or the district judge. The party seeking reconsideration shall file with the Clerk of this Court, and serve upon all parties, a written notice of the motion which shall specifically designate the order or part thereof to be reconsidered and the basis for the objection thereto. The district judge, upon timely motion, shall reconsider the magistrate's order and set aside any portion thereof found to be clearly erroneous in fact or contrary to law. The parties are further advised that the United States Court of Appeals for this Circuit has indicated that failure to comply with this rule shall preclude further appellate review. See Keating v. Secretary of Health and Human Services, 848 F.2d 271 (1<sup>st</sup> Cir. March 31, 1988); United States v. Emiliano Valencia-Copete, 792 F.2d 4 (1<sup>st</sup> Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603 (1<sup>st</sup> Cir. 1980); United States v. Vega, 678 F.2d 376, 378-379 (1<sup>st</sup> Cir. 1982); Scott v. Schweiker, 702 F.2d 13, 14 (1<sup>st</sup> Cir. 1983); see also Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985).

respective parties shall file a Joint Memorandum addressing the matters set forth in LR 116.5(C)(1) through (9) before the close of business no less than THREE business days prior to that Status Conference. In addition, the parties shall include in the Joint Memorandum not only the periods of excludable time that are applicable, but also the amount of time remaining under the Speedy Trial Act before trial must commence, as well as the total amount of time which has been excluded.

/ s / Judith Gail Dein  
Judith Gail Dein  
United States Magistrate Judge